

Filed for intro on 06/27/2001

HOUSE BILL 2036

By Kisber

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 16; Title 45; Title 48; Title 51; Title 54; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67 and Title 68.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-8-202, is amended by deleting subdivision (1) in its entirety and by substituting instead the following language:

(1) "Credit" means the maximum credit for any estate, inheritance, legacy, or succession taxes paid to any state or territory or the District of Columbia, allowable with respect to the gross federal estate tax by Section 2011 of the Internal Revenue Code of 1954 (26 U.S.C. § 2011) as Section 2011 was in effect on December 31, 2000, the maximum credit, however, to be reduced in the proportion which the amount of the nontaxable property bears to the amount of the entire estate of the decedent;

SECTION 2. Tennessee Code Annotated, Section 67-8-202, is amended by deleting subdivision (3) in its entirety and by substituting instead the following language:

(3) "Estate" means the entire estate, or interest therein, of the decedent, that was subject to or liable for the payment of the federal estate tax before deducting any losses or exemptions in accordance with the Internal Revenue Code of 1954 as such Code was in effect on December 31, 2000;

SECTION 3. Tennessee Code Annotated, Section 67-8-202, is amended by deleting subdivision (5) in its entirety and by substituting instead the following language:

(5) "Federal estate tax" means the tax imposed by Chapter 11 of the Internal Revenue Code of 1954 as such Chapter 11 was in effect on December 31, 2000;

SECTION 4. Tennessee Code Annotated, Section 67-8-202, is amended by deleting subdivision (7) in its entirety and by substituting instead the following language:

(7) "State taxes" means the aggregate estate, inheritance, succession, collateral inheritance or legacy taxes paid to any state, territory or the District of Columbia, including also such taxes of any of the above kinds as are imposed by the state of Tennessee other than the Tennessee estate tax imposed by this part, allowable in computing the maximum credit under Section 2011 of the Internal Revenue Code of 1954 as Section 2011 was in effect on December 31, 2000, except such taxes of any of the above kinds or with respect to nontaxable property of the decedent;

SECTION 5. Tennessee Code Annotated, Section 67-8-203, is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) In the application of this part, the provisions of chapter 11 of the Internal Revenue Code of 1954, or of any amendment thereto, as such Chapter 11 or any amendments thereto were in effect on December 31, 2000, shall be applied to the same extent as if the provisions were set forth in this part.

SECTION 6. Tennessee Code Annotated, Section 67-8-203, is amended by deleting subsections (b) and (c) in their entirety.

SECTION 7. Tennessee Code Annotated, Section 67-8-207, is amended by adding the following language at the end of that section:

, in accordance with the timetable for federal estate tax payments as the federal estate tax was in effect on December 31, 2000.

SECTION 8. Tennessee Code Annotated, Title 67, Chapter 8, Part 2, is amended by adding the following new section:

67-8-218. All references in this part to the Internal Revenue Code of 1954, or any Chapter, Section, or other provision thereof, shall be to such Code, Chapter, Section or other provision thereof as in effect on December 31, 2000, it being the legislative intent that the tax provided in this part shall remain in full force and effect notwithstanding any change in federal tax law after December 31, 2000.

SECTION 9. Tennessee Code Annotated, Title 67, Chapter 8, Part 3, is amended by adding the following new section:

67-8-318. All references in this part to the Internal Revenue Code of 1954, or any Chapter or Section thereof, or to any other provision of federal law, shall be to such Code, Chapter, Section or other provision of federal law as in effect on December 31, 2000, it being the legislative intent that the tax provided in this part shall remain in full force and effect notwithstanding any change in federal tax law after December 31, 2000.

SECTION 10. Tennessee Code Annotated, Title 67, Chapter 8, Part 4, is amended by adding the following new section:

67-8-425. All references in this part to the Internal Revenue Code of 1954, or any Chapter or Section thereof, or to any other provision of federal law, shall be to such Code, Chapter, Section or other provision of federal law as in effect on December 31,

2000, it being the legislative intent that the tax provided in this part shall remain in full force and effect notwithstanding any change in federal tax law after December 31, 2000.

SECTION 11. Tennessee Code Annotated, Title 67, Chapter 8, Part 5, is amended by adding the following new section:

67-8-507. All references in this part to the Internal Revenue Code of 1954, or any Chapter or Section thereof, or to any other provision of federal law, shall be to such Code, Chapter, Section or other provision of federal law as in effect on December 31, 2000, it being the legislative intent that the tax provided in this part shall remain in full force and effect notwithstanding any change in federal tax law after December 31, 2000.

SECTION 12. Tennessee Code Annotated, Title 67, Chapter 8, Part 6, is amended by adding the following new section:

67-8-606. All references in this part to the Internal Revenue Code of 1954, or any Chapter or Section thereof, or to any other provision of federal law, shall be to such Code, Chapter, Section or other provision of federal law as in effect on December 31, 2000, it being the legislative intent that the tax provided in this part shall remain in full force and effect notwithstanding any change in federal tax law after December 31, 2000.

SECTION 13. Tennessee Code Annotated, Title 67, Chapter 8, Part 7, is amended by adding the following new section:

67-8-706. All references in this part to the Internal Revenue Code of 1954, or any Chapter or Section thereof, or to any other provision of federal law, shall be to such Code, Chapter, Section or other provision of federal law as in effect on December 31, 2000, it being the legislative intent that the tax provided in this part shall remain in full force and effect notwithstanding any change in federal tax law after December 31, 2000.

SECTION 14. Tennessee Code Annotated, Section 67-1-1802(a) is amended by deleting the fifth (5th) sentence of subdivision (1) and substituting instead the following language:

The authority granted in this subdivision extends only to taxes for which a claim is filed, with the commissioner under oath and supported by proper proof, within three (3) years from December 31, of the year in which the payment was made; provided, however, that a franchise, excise tax refund shall not be made unless the refund claim is filed within one (1) year from December 31 of the year in which payment was made. Any claim which would be untimely under the provisions of this Act, but which could have been timely filed within the limitations period previously in effect, may still be filed within the limitations period previously in effect, but in no event after December 31, 2001, any other provisions of law to the contrary notwithstanding

SECTION 15. Tennessee Code Annotated, Section 67-1-1802(a) is amended by deleting the language in subdivision (2) in its entirety and substituting instead the following:

The commissioner is authorized to make refunds, within three years from December 31 of the year in which the payment was made, without a claim being filed, if the commissioner is in possession of proper proof and facts that a refund is due; provided, however, that no refund for franchise or excise taxes shall be made after one year from December 31 of the year in which payment was made. Any refund which the Commissioner may not make because of the time period specified in this Act, but which could have been made within the time period previously in effect, may still be made within the time period previously in effect, but in no event after December 31, 2001, any other provisions of law to the contrary notwithstanding.

SECTION 16. Tennessee Code Annotated, Section 67-6-102(24)(F)(i), is amended by inserting the following language after the first sentence:

The taxes levied or authorized by this chapter on such sales, rentals or charges shall not prohibit or preempt counties and municipalities from imposing an additional privilege tax on such sales, rentals or charges if such privilege taxes are levied pursuant to a general law or a private act.

SECTION 17. Tennessee Code Annotated, Section 67-4-708(3)(C)(xii) is amended by inserting the following language immediately following the word "houses":

provided that, the tax levied by this part on persons engaged in the operation of hotels, motels and rooming houses shall not prohibit or preempt counties and municipalities from imposing an additional privilege tax on the sales, rentals, or charges for any rooms, lodging, or accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration if such taxes are levied pursuant to a general law or a private act.

SECTION 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it.